REMARKS

This is meant to be a complete response to the Office Action mailed January 28, 2008. In the Office Action, the Examiner rejected Applicant's claims 9-14, 17-22 and 34-38 under 35 U.S.C. 102(b) as being anticipated by Jackson et al. (US 5,810,786). Also in the Office Action, the Examiner rejected Applicant's claims 15-16, 23-24 and 39-40 under 35 U.S.C. 103(a) as being unpatentable over Jackson et al.

Applicant's Response to the 35 U.S.C. 102(b) Rejection

In the Office Action, the Examiner rejected Applicant's claims 9-14, 17-22 and 34-38 under 35 U.S.C. 102(b) as being anticipated by Jackson et al. (US 5,810,786). Claims 9-14 have been canceled herein, without prejudice, and therefore the rejection of such claims has been rendered moot. Applicant respectfully traverses the rejection of claims 17-22 and 34-38 based on the amendments to the claims and for the reasons stated herein below.

The presently claimed invention, as recited by claims 17-22, is directed to a method for topically anesthetizing tracheal surfaces of an intubated patient. The method includes providing an assembly that includes a tracheal tube and a tracheal tube cover disposed and sealed about the tracheal tube. The assembly is inserted into a trachea of a patient, and an effective amount of anesthetic is disposed in the tracheal tube cover **after the assembly is inserted into the trachea of the patient**. The anesthetic is then allowed to diffuse through the tracheal tube cover and thereby topically anesthetize the

tracheal surfaces of the patient that are in contact with or in close proximity to the assembly.

The presently claimed invention recited by claims 34-38 differs from the invention claimed in claims 17-22 in that the tracheal tube is inserted into the trachea of the patient prior to disposing the tracheal tube cover about the tracheal tube. However, in both instances, the anesthetic is disposed in the tracheal tube cover **after insertion of the tracheal tube and tracheal tube cover into the trachea of the patient**.

Jackson et al. disclose tissue-numbing anesthetic articles in which a compound with topical anesthetic and plasticizing properties is dissolved in a polymeric material, which is then utilized to form an endotracheal tube. However, Jackson et al. do not teach, disclose or even suggest a method for topically anesthetizing tracheal surfaces of an intubated patient by inserting a tracheal tube/tracheal tube cover assembly into a patient followed by disposing an effective amount of anesthetic in the tracheal tube cover **after the assembly is inserted into the trachea of the patient**. Jackson et al. teach disposal of anesthetic in the tracheal tube prior to insertion of same into a patient.

In fact, Jackson et al. actually teach away from this inventive concept, as Jackson et al. teach the desirability of impregnating the plastic from which the tracheal tube is made with the anesthetic.

In the method of Jackson et al., the plastic itself serves as a reservoir for the anesthetic, whereas in the presently claimed invention, the at least one cuff of the sheath of the tracheal tube cover is the reservoir for the anesthetic.

Therefore, Applicant respectfully submits that claims 17-22 and 34-38, as now pending, are not anticipated by Jackson et al. Applicant respectfully requests reconsideration and withdrawal of the 35 U.S.C. 102(b) rejection of claims 17-22 and 34-38 as now pending.

Applicant's Response to the 35 U.S.C. 103(a) Rejection

In the Office Action, the Examiner rejected Applicant's claims 15-16, 23-24 and 39-40 under 35 U.S.C. 103(a) as being unpatentable over Jackson et al. Claims 15-16 have been canceled herein, and therefore the rejection of such claims has been rendered moot. Applicant respectfully traverses the rejection of claims 23-24 and 39-40 for the reasons stated above in response to the 35 U.S.C. 102(b) rejection of independent claims 17 and 34, from which claims 23-24 and 39-40 depend, respectively.

Briefly, as described herein above, Jackson et al. do not teach, disclose or even suggest a method for topically anesthetizing tracheal surfaces of an intubated patient by inserting a tracheal tube/tracheal tube cover assembly into a patient followed by disposing an effective amount of anesthetic in the tracheal tube cover **after the assembly is inserted into the trachea of the patient**. In fact, Jackson et al. actually teach away from this inventive concept, as Jackson et al. teach the desirability of impregnating the plastic from which the

tracheal tube is made with the anesthetic, and thereby require the disposal of anesthetic in the tracheal tube prior to insertion of the same into a patient.

Therefore, just as independent claims 17 and 34 are not anticipated by nor obvious over Jackson et al., any claims which depend therefrom are also not obvious over such reference.

In addition, with regard to the specific limitations of claims 23-24 and 39-40, Applicant also respectfully traverses the Examiner's assertion that it would have been obvious to create a second labeled injection assembly. The Specification of the subject application clearly teaches the novelty, non-obviousness and synergistic effect of such injection assembly, as evidenced in paragraphs [0028]-[0030], [0034]-[0035] and [0039] of the subject application. Therefore, the addition of a second labeled injection assembly is not a "mere duplication of essential working parts of a device", as asserted by the Examiner. The second labeled injection assembly is illustrated as supplying a different cuff than the first labeled injection assembly, and thus is not a duplication of a working part, but rather is actually serving a different function than the first labeled injection assembly.

Therefore, Applicant respectfully submits that a *prima facie* case of obviousness has not been met. Applicant respectfully requests reconsideration and withdrawal of the 35 U.S.C. 103(a) rejection of pending claims 23-24 and 39-40.

CONCLUSION

This is meant to be a complete response to the Office Action mailed January 28, 2008. Applicant respectfully submits that each and every rejection of the claims has been overcome. Further, Applicant respectfully submits that claims 17-24 and 34-40 are patentable over the art of record and are in a condition for allowance. Favorable action is respectfully solicited.

Should the Examiner have any questions regarding this Amendment, or the Remarks contained therein, Applicant's representative would welcome the opportunity to discuss the same with the Examiner.

Respectfully submitted,

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